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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/584,316	06/23/2006	Toshihiro Oki	292920US0PCT	9808
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
CHEUNG, WILLIAM K				
ART UNIT		PAPER NUMBER		
1796				
NOTIFICATION DATE		DELIVERY MODE		
09/07/2010		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/584,316

Applicant(s)

OKI ET AL.

Examiner

WILLIAM K. CHEUNG

Art Unit

1796

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 30 August 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: none.
Claim(s) objected to: none.
Claim(s) rejected: 1-5-8 and 10-15.
Claim(s) withdrawn from consideration: none.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/William K Cheung/
Primary Examiner, Art Unit 1796
August 31, 2010

Continuation of 11, does NOT place the application in condition for allowance because: Applicants argue that although Storm et al. teach the functional equivalence of hectic and montmorillonite clays in fabric-softening compositions, Baeck et al. (page 2, line 8-14) indicate that the montmorillonite clay in the fabric-softening compositions of Storm et al. is not sufficiently deposited onto the fabric. Therefore, applicants believes that Storm et al. teach the non-equivalence of hectic and montmorillonite clays. However, the examiner disagrees. Applicants must recognize that Baeck et al. (page 2, line 13-14) clearly indicates that there is very little connection on how the clay deposition can affect fabric-softening action. Contrary to applicants' argument, Baeck et al. (page 2, line 6-7) clearly indicates that montmorillonite clays are preferred in Storm et al. for reasons of color and cation exchange capacity. Therefore, applicants do not have any basis to argue that Storm et al. or Baeck teach away from the use of montmorillonite to overcome the functional equivalence of hectic and montmorillonite clays as taught in Storm et al. Further, applicants do not have any evidence to support that it is the type of clay that is responsible to the percentage deposition, not by other ingredients in the compositions disclosed. Therefore, claims 1, 5-8, 10-15 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Baeck et al. (EP 0 297 673) as affirmed by Jayawant (US 3,860,694) in view of Storm et al. (GB 1 400 898) for the reasons adequately set forth from paragraph 4 of the final rejection of May 19, 2010. Regarding the rejection of claims 1, 5, 6, 7 under 35 U.S.C. 102(b) as being anticipated by Baker et al. (US 2002/0128165), as affirmed by Jayawant (US 3,860,694), applicants argue that Baker et al. do not teach a composition comprising a fatty acid since the composition I of Baker et al. (page 11-13, Composition I) does not contain a fatty acid. Applicants argue that TAS is a sulfonate not a salt of a fatty acid. However, the examiner disagrees because TAS is sodium tallow alkyl sulfate as indicated in Baker et al. (page 10, 0176, Table), sulfonic acid of tallow is a fatty acid, and sodium tallow alkyl sulfate is the sodium salt of tallow sulfonic acid. Tallow is fat that is general of animal origin. In view of the reasons set forth above, applicants' argument is not supported by the disclosure of Baker et al. relating to the chemical entities of TAS. Therefore, claims 1, 5, 6, 7 stand rejected under 35 U.S.C. 102(b) as being anticipated by Baker et al. (US 2002/0128165) as affirmed by Jayawant (US 3,860,694) for the reasons adequately set forth from paragraph 5 of the final office action of May 19, 2010.